

**Remarks**

Claims 1-16 are pending in the subject application. Claims 1-5, 7, 8, 12, 13, 15, and 16 have been amended. Claims 11 and 14 have been cancelled. Claims 17-21 are new. No new matter has been added.

**Claim Rejections – 35 USC §112:**

Claims 1-16 stand rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which that applicant regards as the invention.

The Examiner states that “[t]he claims are generally narrative and indefinite, failing to conform with current U.S. practice” and “[t]hey appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.”

With respect to claim 1, the Examiner states that there is insufficient antecedent basis for “the auto body” in line 4. With respect to claims 2, 7, 11, and 14, the phrases “can then be” and “can be” render the claims indefinite.

The Applicants have amended claims 1-5, 7, 8, and 12-16 to conform with current U.S. practice by correcting, *inter alia*, antecedent basis and grammatical errors. The rejection of claims 1-16 is believed to be overcome and this rejection should be withdrawn.

The Examiner also states that claims 1 and 5 contain the word “trend”, which, according to Webster’s II Dictionary Third Edition pp. 746, “means-*noun*. *A general inclination or tendency: drift. A direction of movement: course.* –*verb*. *To have a specified direction or tendency.*” The Examiner further states that “[i]t is unclear as to what is meant by this word and in the context of the claims” and the “[e]xaminer is interpreting the trend as the shape of edge.”

The Examiner is correct to interpret the word “trend” to mean the shape of the edge. Paragraph [0039] of the specification as filed, states that “edge 13...can be formed arbitrarily over the roof width and therefore be *adapted precisely to the curvature of the edge 15* bounding the recess 14...” Claims 1 and 5 have been amended to add clarity by changing the word “trend” to the word “curvature”. The rejection of claims 1 and 5 is believed to be overcome and this rejection should be withdrawn.

The Examiner states that “[c]laim 5 is not fully understood by the examiner and will be examined as best understood. The Examiner further states that “[c]laims 1-4 and 6-16 will be examined to the best of the ability of one of ordinary skill in the art.”

As discussed above, the Applicants have amended claims 1-5, 7, 8, and 12-16 to conform with current U.S. practice. It is believed that the claims, as amended, are in a better condition for examination by the Examiner.

### **Drawings:**

The drawings are objected to under 37 CFR §1.83(a), which requires that the drawings must show every feature of the invention specified in the claims. The Examiner states that “[t]herefore, ‘the edge to the body recess is the front edge of the trunk lid’ must be shown or the features(s) canceled from the claim(s).”

Claims 12 and 15 have been amended to state, in part, “the edge (15) adjacent to the body recess (14) in parts of its areas is **parallel to** a front edge (16) of a trunk lid (17).” [emphasis added]. Support for this amendment is shown in Figure 1 and in Paragraph [0034] of the specification as filed.

The Applicants submit that the objection to the drawings is overcome and the objection should be withdrawn.

### **Claim Rejections – 35 USC §102:**

Claims 1-9, 13, and 16 stand rejected under 35 USC 102(b) as being anticipated by United States Patent No. 5,810,422 to Corder et al.

With respect to claim 1, the Examiner states that “Corder et al. discloses a cabriolet vehicle (Figure 1) with a roof (10) provided with a flexible cover (20) in at least parts of its area, which includes a front roof area (22), which can be stored in the same orientation as in the closed state in a body recess, which is bounded on the rear by an edge of the auto body, characterized by the fact that the outer surface of the front roof area (22) is separated relative to the rear roof area (24) lying farther rearward and provided with cover (20) and that the rear edge of the front roof area (22) is adapted to the trend of the edge of body bounding the body recess on the rear.”

Claim 1 has been amended to recite, in part, “a front edge (12) of the front roof area (9) is connected to the windshield frame (2) and a rear edge (13) of the front roof area (9) is connected

to the rear roof area (8) when the roof (3) is in the closed state; wherein the transverse support (18) locks to the rear edge (13) of the front roof area (9) when the roof (3) is in the closed state.” Support for this amendment can be found in Figure 4 and in Paragraphs [0030], [0035], and [0036] of the specification as filed.

Corder et al. fails to disclose that “a front edge of the front roof area is connected to the windshield frame and a rear edge of the front roof area is connected to the rear roof area when the roof is in the closed state; wherein the transverse support locks to the rear edge of the front roof area when the roof is in the closed state.”

Accordingly, with the present Amendment, the claimed invention is not anticipated by Corder et al., and claim 1 is allowable for at least this reason, and withdrawal of the rejection is respectfully requested.

Additionally, claims 2-9, 13, and 16, which depend from allowable claim 1, are allowable for at least the same reason that claim 1 is allowable. Therefore, withdrawal of the rejection of claims 1-9, 13, and 16 is respectfully requested.

Claims 1-3, 6, 7, and 9 are rejected under 35 USC §102(b) as being anticipated by United States Patent 6,343,829 to Busch.

With respect to claim 1, the Examiner states that “Busch discloses a cabriolet vehicle with a roof (Figure 1) provided with a flexible cover (1) in at least parts of its area, which includes a front roof area (5), which can be stored in the same orientation as in the closed state in a body recess (Figure 3), which is bounded on the rear by an edge of the auto body (See Figure 3), characterized by the fact that the outer surface of the front roof area (5) is separated relative to the rear roof area (6) lying farther rearward and provided with cover (1) and that the rear edge of the front roof area (5) is adapted to the trend of the edge of the body bounding the body recess on the rear.”

As discussed above, claim 1 has been amended to recite, in part, “a front edge (12) of the front roof area (9) is connected to the windshield frame (2) and a rear edge (13) of the front roof area (9) is connected to the rear roof area (8) when the roof (3) is in the closed state; wherein the transverse support (18) locks to the rear edge (13) of the front roof area (9) when the roof (3) is in the closed state.”

Busch fails to disclose that “a front edge of the front roof area is connected to the windshield frame and a rear edge of the front roof area is connected to the rear roof area when

the roof is in the closed state; wherein the transverse support locks to the rear edge of the front roof area when the roof is in the closed state.”

Accordingly, with the present Amendment, the claimed invention is not anticipated by Busch, and claim 1 is allowable for at least this reason, and withdrawal of the rejection is respectfully requested.

Additionally, claims 2, 3, 6, 7, and 9, which depend from allowable claim 1, are allowable for at least the same reason that claim 1 is allowable. Therefore, withdrawal of the rejection of claims 2, 3, 6, 7, and 9 is respectfully requested

### **Claim Rejections – 35 USC §103:**

Claim 10 stands rejected under 35 USC §103(a) as being unpatentable over United States Patent No. 6,343,829 to Busch. With respect to claim 10, the Examiner states that “Coeder et al fails to disclose the material for the rigid panels is lightweight.” The Examiner further states that “[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to use a lightweight material for material choice is an obvious expedient and involves only routine skill in the art.”

The claimed invention is not obvious. For a rejection to be proper under 35 USC §103(a), the prior art reference or references must teach or suggest all the claim limitations. MPEP §2143. A proper rejection under 35 USC §103(a) requires that the Examiner establish *prima facie* obviousness. As recited in the MPEP, “[t]he Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.” MPEP §2142.

Three basic criteria must be met to establish *prima facie* obviousness. MPEP §2142. First, there must be some suggestion or motivation to modify a reference or combine teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference or references must teach or suggest all the claimed limitations.

Applicants submit that the Examiner has not met the burden of proof for establishing *prima facie* obviousness for at least the reason that the rejected claims recite elements and limitations that are neither taught nor suggested by the Busch reference and, thus, the third criterion necessary to establish *prima facie* obviousness has not been satisfied.

As discussed above, Busch does not disclose that “a front edge of the front roof area is

connected to the windshield frame and a rear edge of the front roof area is connected to the rear roof area when the roof is in the closed state; wherein the transverse support locks to the rear edge of the front roof area when the roof is in the closed state.” Therefore, modifying Busch, as suggested by the Examiner, would still not remedy this initial deficiency of Busch. Accordingly, claim 10 is allowable over Busch and withdrawal of the rejection is respectfully requested.

Claims 4, 5, 8, and 10 stand rejected under 35 USC §103(a) as being unpatentable over Busch. With respect to claim 4, the Examiner states that “Busch fails to disclose the remaining gap between the rear edge of the front roof area (5) and the auto body edge bordering the recess is narrower than 40 millimeters.” The Examiner also states that “[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made that Busch would have been capable of having this dimension for changing the size of an object involves only routine skill in the art and holds no patentable weight.” The Examiner also states that “having minimal space between the front roof area and the edge bordering the recess prevents the nesting of insect and rodents when the vehicle is in storage with the roof open.”

Applicants submit that the Examiner has not met the burden of proof for establishing *prima facie* obviousness for at least the reason that the rejected claims recite elements and limitations that are neither taught nor suggested by the Busch reference and, thus, the third criterion necessary to establish *prima facie* obviousness has not been satisfied.

As discussed above, Busch does not disclose that “a front edge of the front roof area is connected to the windshield frame and a rear edge of the front roof area is connected to the rear roof area when the roof is in the closed state; wherein the transverse support locks to the rear edge of the front roof area when the roof is in the closed state.” Therefore, modifying Busch, as suggested by the Examiner, would still not remedy this initial deficiency of Busch. Accordingly, claims 4, 5, 8, and 10 are allowable over Busch and withdrawal of the rejection is respectfully requested.

Claims 11 and 14 stand rejected under 35 USC §103(a) as being unpatentable over Busch or Corder et al. in view of applicants admitted prior art. More specifically, the Examiner states that “Busch and Corder et al fail to disclose that the front end of the roof area can be locked to the rear edge of the front roof area” and that “Applicant admits within the claims that the roof area is ‘designed in the fashion of an ordinary roof top’, and therefore it would have been

obvious to one of ordinary skill in the art to make these roof areas of Busch or Corder et al lock together.”

Applicants submit that the Examiner has not met the burden of proof for establishing *prima facie* obviousness for at least the reason that the rejected claims recite elements and limitations that are neither taught nor suggested by the Busch or Corder et al. references and, thus, the third criterion necessary to establish *prima facie* obviousness has not been satisfied.

As discussed above, neither Busch nor Corder et al. disclose that “a front edge of the front roof area is connected to the windshield frame and a rear edge of the front roof area is connected to the rear roof area when the roof is in the closed state; wherein the transverse support locks to the rear edge of the front roof area when the roof is in the closed state.” Therefore, modifying Busch or Corder et al., in view of what the Examiner states to be “applicants admitted prior art”, as suggested by the Examiner, would still not remedy this initial deficiency of Busch. Accordingly, claims 11 and 14 are allowable over Busch and withdrawal of the rejection is respectfully requested.

Claims 12 and 15 stand rejected under 35 USC §103(a) as being unpatentable over Busch or Corder et al in view of United States Patent No. 6,637,802 to Obendiek. More specifically, the Examiner states that “Busch and Corder et al. fail to disclose that the edge of the auto body is a front edge to a trunk lid.” The Examiner further states that “Obendiek teaches that the edge of the auto body is a front edge of a trunk lid (10)” and that “[i]t would have been obvious to one with ordinary skill in the art at the time the invention was made to have the edge be a front edge of a trunk lid as taught by Obendiek on the device of Busch or Corder et al in order to reduce manufacturing cost.”

Applicants submit that the Examiner has not met the burden of proof for establishing *prima facie* obviousness for at least the reason that the rejected claims recite elements and limitations that are neither taught nor suggested by the Busch, Corder et al., or Obendiek references and, thus, the third criterion necessary to establish *prima facie* obviousness has not been satisfied.

As discussed above, neither Busch nor Corder et al. disclose “a front edge of the front roof area is connected to the windshield frame and a rear edge of the front roof area is connected to the rear roof area when the roof is in the closed state; wherein the transverse support locks to the rear edge of the front roof area when the roof is in the closed state.” Therefore, modifying

Busch or Corder et al., in view of Obendiek, as suggested by the Examiner, would still not remedy this initial deficiency of Busch or Corder et al. In addition, as discussed previously, claims 12 and 15 have been amended to recite, in part, “the edge (15) adjacent to the body recess (14) in parts of its areas is **parallel to** a front edge (16) of a trunk lid (17).” [emphasis added]. Accordingly, claims 12 and 15 are allowable over Busch, Corder et al. and withdrawal of the rejection is respectfully requested.

Claims 13 and 16 stand rejected under 35 USC §103(a) as being unpatentable over Busch or Corder et al. More specifically, the Examiner states that “Busch fails to disclose the edge adjacent to the auto body recess in parts of its areas is the front edge of a cross bar of the auto body outer surface arranged in front of a trunk lid.” In addition, the Examiner states that “Corder et al teaches the edge adjacent to the auto body recess in parts of its areas is the front edge of a cross bar (See Figure 1) of the auto body outer surface arranged in front of a trunk lid.” Finally, the Examiner states that “[i]t would have been obvious to one with ordinary skill in the art at the time the invention was made to use the cross bar as taught by Corder et al on the device of Busch in order to strengthen connection of the roof areas to the vehicle.”

Applicants submit that the Examiner has not met the burden of proof for establishing *prima facie* obviousness for at least the reason that the rejected claims recite elements and limitations that are neither taught nor suggested by the Busch or Corder et al. references and, thus, the third criterion necessary to establish *prima facie* obviousness has not been satisfied.

As discussed above, Busch fails to disclose “a front edge of the front roof area is connected to the windshield frame and a rear edge of the front roof area is connected to the rear roof area when the roof is in the closed state; wherein the transverse support locks to the rear edge of the front roof area when the roof is in the closed state.” Therefore, modifying Busch in view of Corder et al., as suggested by the Examiner, would still not remedy this initial deficiency of Busch. Accordingly, claims 13 and 16 are allowable over Busch, Corder et al. and withdrawal of the rejection is respectfully requested.

#### **New Claims:**

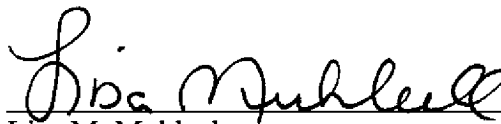
Support for new claims 17-21 can be found in Figures 1-8 and in Paragraphs [0028]-[0040] of the specification as filed.

## CONCLUSION

If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

Respectfully submitted,

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